

# **Towards a normative framework: The UN Treaty on transnational corporations, other businesses and human rights**

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## **Abstract**

While transnational corporations and other business enterprises have the capacity to foster economic well-being, development, technological improvement and wealth, trade and investment agreements often lead to policies and governmental measures with a negative impact on the full enjoyment of human rights. In 2014, the United Nations Human Rights Council decided to establish an open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights, whose mandate is to elaborate a binding instrument of international law. The paper offers a discussion of the progress achieved on the topic so far by focusing on the key challenges: the added value of a specific treaty, personal scope, material scope, the State duty to protect human rights, the corporate responsibility to respect human rights, the need for greater access to remedy for victims of business-related abuses, etc.

**Keywords:** United Nations, human rights, business and human rights, transnational corporations, corporate responsibility

## **Introduction**

The initial approach that corporations were not treated as subjects of international law has changed in the last few decades, giving way to the recognition that business organizations might have rights and obligations under international law, most notably in relation to foreign investments, human rights accountability and environmental liability rules (Muchlinski, 2014).

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Businesses have profound impact on human rights. On the one hand, transnational corporations (TNCs) generate employment and educational opportunities and revive living conditions in communities with investment and technologies (Palmer, 2016: 77). Long-term investments of TNCs could contribute to poverty alleviation and development. Yet, the activities of corporations in local communities can result in violations of human rights, including “the dispossession of peasants through land grabs by governments and agribusiness; environmental damage by mines; access to medicines for the poor in the face of some pharmaceutical giants’ drive to assert their universal patents; living wage and safe working conditions in apparel supply chains; collusion of tech companies with repressive governments to censor the web; and tax evasion and avoidance by international companies” (Bloomer, 2014: 118).

Whereas in developed countries legislation and the judicial system provides effective guarantees against abuses, these are often non-existent in developing States, where corruption, weak enforcement and the inability and/or lack of willingness of States to confront the TCNs’ power represent an obstacle to remedy human rights abuses of corporations (Palmer, 2016: 77; Teitelbaum, 2010: 3). Governments are interested in retaining TNCs in their territories and this “race to the bottom” is favourable to countries with relatively low level of human rights protection (Zhao, 2015: 48).

The scope of this paper does not allow to go into details as regards the origins of the idea of corporate responsibility with respect to human rights, and the various phases of developing the business and human rights treaty. Suffice it here to say that, at the international level, heightened social awareness of businesses’ impact on human rights has resulted in the adoption of various soft law instruments, *inter alia*, the *OECD Guidelines for Multinational Enterprises* (2011), the *ILO Tripartite Declaration of Principles on Multinational Enterprises and Social Policy* (2006), supplemented by the *ILO Declaration on Fundamental Principles and Rights at Work* (1998), and the *UN Guiding Principles on Business and Human Rights* (2011). Initiatives to promote corporate respect for human rights have led to the placement of business and human rights (B&HR) on the UN agenda, resulting in the adoption of the first version, the so-called Zero Draft of the envisaged B&HR treaty. New developments such as the Zero Draft demonstrate how new directions in the international relations, trade and infrastructure connections of States result in changes in States’ and TNCs’ approach to human rights (Békési, 2010).

The objective of this paper is to provide a brief account of this draft. It argues that while the draft represents an important step in the identification and clarifications of standards of corporate responsibility, and accountability for TNCs with respect to human rights, it is flawed by conceptual vagueness, as well as the weak implementation system envisaged by it.

### **The 2011 UN Guiding Principles on Business and Human Rights**

In 2005, the UN Commission on Human Rights, predecessor to the Human Rights Council, established a mandate for a Special Representative of the Secretary-General (SR) “on the issue of human rights and transnational corporations and other business enterprises”. In its report of 2008, the SR presented a conceptual and policy framework, comprising three core principles: the State duty to protect against human rights abuses by third parties, including business; the corporate responsibility to respect human rights; and the need for more effective access to remedies (UN HRC, 2008). Based on this framework, the SR developed the UN Guiding Principles on Business and Human Rights, which was unanimously endorsed by the Human Rights Council in June 2011.

The Guiding Principles consist of three pillars. The State duty to *protect* is a standard of conduct prescribing that States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. States may breach their international human rights law obligations where corporate abuse of human rights can be attributed to them, or where they fail to take appropriate steps towards the prevention of such abuse. The principles relating to corporate responsibility to *respect* human rights stipulate that TNCs “should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.” Corporations should develop policy commitments, exercise “human rights due diligence,” and provide for or cooperate in remediation processes. The third pillar addresses the need for greater access to *remedy* for victims of business-related abuse.

Admittedly, the Guiding Principles do not aim at the creation of new international obligations. Instead, the objective was to elaborate the implications of existing standards, to integrate them in a single comprehensive framework, to identify the weaknesses of the current regime and the possibilities for enforcement (UN Guiding Principles, 2011: Introduction, para. 14). Nevertheless, the criticism regarding the non-binding nature of the Principles and their overall effectiveness in securing protection to individuals and communities against corporate-related human rights harm (Thielbörger, 2017: 46) led to

the creation of a UN working group with the task to draft a legally binding instrument. Quite interestingly, the Special Representative himself did not support the idea of adopting an overarching “business and human rights treaty”. The SR argued that the issue “includes complex clusters of different bodies of national and international law” such as human rights law, labour law, anti-discrimination law, humanitarian law, investment law, trade law, consumer protection law, as well as corporate law and securities regulation. Thus, attempt to aggregate them into a general B&HR treaty seems unfeasible (Ruggie, 2014).

### **Towards a normative framework: a new B&HR treaty**

In 2014 the Human Rights Council adopted resolution 26/9 establishing an open-ended intergovernmental working group (IGWG) with a mandate to elaborate a binding instrument of international law to regulate, in international human rights law, the activities of transnational corporations and other business enterprises.

So far, the working group has had three sessions, in 2015, 2016 and 2017, with the fourth to be held in October 2018. In July 2018, Ecuador, on behalf of the Chairmanship of the IGWG, released the Draft UN Treaty on Business and Human Rights, also called Zero Draft, the text that will be discussed during the fourth round of negotiations on the treaty. On 4 September 2018, this was supplemented by a Zero Draft Optional Protocol. The major provisions of the treaty are as follows.

#### *Scope, jurisdiction and remedies*

The Treaty applies “to human rights violations in the context of any business activities of a transnational character” (Art. 3). While seemingly broad, the meaning of the terms is not quite clear. Firstly, it does not cover national companies despite the fact that human rights might be abused by transnational as well national companies. The exclusion of the latter seriously narrows the scope of the draft. Second, the Zero Draft is restricted to profit-making corporations, and thus it does not cover State-owned enterprises, which, in many cases, enjoy favourable legislative and factual environment, and operate with impunity. Such enterprises can be established e.g. to advance governments’ geopolitical interests abroad, for which the enterprise may be subsidized, but since they are not “for profit”, they escape the scope of the Zero Draft (UN HRC, 2016a: paras. 15 and 16; Ruggie, 2018).

In Art. 3(2), the Zero Draft provides that it covers all international human rights and those rights recognized under domestic law. This open-ended formulation fails to specify whether it refers to all treaties and customary international law covering human rights, or only to those which are binding on the future States Parties to the proposed B&HR convention. As far as the reference to domestic law is concerned, it is not clear how possible tensions and contradictions between international and national standards can be settled.

Regrettably, the new text does not directly regulate business activities in the area of human rights. Traditionally, “the State has been seen as the primary duty bearer, held responsible for realising the human rights of their citizens as well as protecting their rights from violation.” (Bloomer, 2014: 116) Thus, human rights treaties create obligations for States only. The Zero Draft is similar in this regard: whereas the Preamble provides that “all business enterprises ... shall respect all human rights”, later it talks about the primary responsibility of States to promote, respect, protect and fulfil human rights, and makes no further reference to corporate human rights obligations under international law.

Jurisdiction with respect to human rights abuses is vested either with the host State (where the abuse occurred), or with the home State (where the corporation is domiciled) (Art. 5). The obligation of a State to control the conduct of non-State actors where such conduct might lead to human rights violations outside its territory is a contentious issue, not addressed by the Zero Draft. During the drafting procedure, while certain members of the IGWG supported the idea of extraterritorial jurisdiction, others argued that “it could only be invoked exceptionally, duly justified by a legitimate interest and when a real and substantial link existed between a forum and the parties and claims concerned.” (UN HRC, 2018: para. 107)

Since there are various legal, procedural and practical barriers preventing access to remedy at the national level, the Zero Draft pays special attention to the issue of effective access to justice and reparation to those who allege a harm, and legal accountability of transnational corporations. Forms of reparation include restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition. Victims of abuses often face difficulties in obtaining justice due to lack of sufficient means, thus Art. 8(5) stipulates that “[i]n no case shall victims be required to reimburse any legal expenses of the other party to the claim”. This provision is, however, controversial: while it secures access to justice for those unable to afford legal representation and access to the court system, it may be seen as an incentive to frivolous litigation. In addition, Art. 8(7)

provides for the establishment of an International Fund for Victims to provide legal and financial aid to victims.

### *Prevention and legal liability*

States must ensure “in their domestic legislation that all persons with business activities of transnational character” undertake *due diligence obligations* throughout their business activities. This human rights due diligence includes, *inter alia*, preventing human rights violations, undertaking environmental and human rights impact assessments, and carrying out meaningful consultations with affected groups and relevant stakeholders. An important element of the treaty is that it imposes the duty on States to secure compliance with these obligations, and provides for liability and compensation for failure to respect due diligence obligations.

Article 10 stipulates States’ duties to hold perpetrators liable for human rights violations in the context of transnational business activities through their domestic law. Such liability is subject to both criminal and non-criminal sanctions.

Art. 10(6) imposes *civil liability* on companies in connection with the actions of their subsidiaries and business partners as well, depending on factors of control, foreseeable risk, and “strong and direct connection” between the company’s conduct and the wrong. Admittedly, a key issue is the parent-subsidary company relationship, i.e. to what extent, if at all, the parent company may be held liable for the wrongs committed by its subsidiaries. The problem is that “[t]oday’s mega-corporations with massive legal teams can carefully guard against liability by establishing subsidiaries and maintaining distinct corporate identities” (Dearborn, 2009: 208). A solution could be to rely on the concept of enterprise liability which is based on the assumption that the parent company and its subsidiaries are part of a unified joint venture and thus should be held jointly liable. Enterprise theory views the corporate group as a singular unit, rather than viewing each subsidiary or affiliated corporation as a separate legal entity (Dearborn, 2009: 210). The practical *rationale* behind an eventual piercing of the corporate veil is that “the parent corporation, while perhaps not in direct control of the events that lead to massive harm, may be in a better position to prevent these catastrophes before they occur through oversight, protections, and allocation of capital resources” (Dearborn, 2009: 205). However, corporations and legal practitioners are reluctant to depart from the doctrine of separation of legal entities.

The provisions on *criminal liability* are formulated in a loose fashion. First, only criminal conduct that occurs in more than one jurisdiction may be punishable. Second, the draft establishes criminal liability for criminal offences under international law as well as national law, thus it is not clear what happens if the two are divergent. Finally, human rights abuses are sanctioned only when committed by “persons with business activities of a transnational character”.

#### *Implementation and enforcement*

States must take legislative and administrative measures to ensure the effective implementation of the draft treaty and accord special attention to business activities in conflict-affected areas and to vulnerable groups, including women, children, persons with disabilities, indigenous peoples, migrants, refugees and internally displaced persons (Arts. 9 and 15). Statute of limitations shall not apply to violations of international human rights law which constitute crimes under international law, while domestic statutes of limitations should not be unduly restrictive (Art. 6).

One of the major weakness of the draft is its international institutional arrangements. The draft provides for a traditional treaty-monitoring body, a Committee composed of a limited number of experts whose competence will be limited to the supervision of State reports. This restriction, while heavily criticised in relation to the other universal human rights conventions (Crawford, 2000; Bristol Conference, 2009; Komanovics, 2014), is even more regrettable in the case of corporate abuses. The lack of expertise, characteristic of the Committee members of the existing treaty bodies, could represent a major problem in the case of the B&HR treaty, which relates to an inherently complex and multidisciplinary issue. This, coupled with political bias, is likely to reduce the efficiency of the supervision process (Yanes, 2018).

The draft Optional Protocol provides for a National Implementation Mechanism, vested with a competence to conduct reviews on the implementation of due diligence obligations upon request by victims, natural or legal persons conducting business activities of a transnational character, or *ex officio*. On an optional basis, States Parties may recognize the competence of National Implementation Mechanisms to receive and consider complaints of human rights violations by victims or a group of victims, their representatives or other interested parties, with a view to reaching an amicable settlement of the matter. In addition, following the precedent set by previous human rights treaties, the OP vests the Committee established by the draft treaty with the power to receive and

consider communications from or on behalf of individuals or groups of individuals, as well as to make a confidential inquiry.

### **Assessment**

As the Guiding Principles so far have not been successful in significantly changing States' practices, the B&HR treaty can be regarded as a significant step towards ending the impunity for corporate-related human rights abuses. By addressing the existing asymmetry between the rights and obligations of businesses, it would be an important addition to the nine core human rights treaties. Its legally binding character, its emphasis on prevention, its ambitious scope and scale represent a major step towards closing the gaps on human rights impacts of transnational operations.

Yet, the Zero Draft is not without flaws. Thus, the treaty does not impose legally enforceable human rights obligations on companies, it has a weak implementation system largely relying on self-reporting, and it fails to protect human rights defenders from persecution by both States and businesses. Since many of the gaps in access to remedy are filled by them, human rights defenders are frequently stigmatized, harassed or even persecuted. Thus, the treaty should provide for the States' obligation to protect human rights defenders. Furthermore, the draft treaty pays scant attention to the heightened risks of violations of human rights women face within the context of business activities. The draft should use stronger language to prevent gender-based discrimination and provide for special measures to address gender-specific risks. During the drafting process it was submitted that the treaty should mandate Gender Impact Assessments of planned and existing operations, gender-sensitive justice and remedy mechanisms, as well as specific and enhanced protection mechanisms for women human rights defenders (Feminists For A Binding Treaty coalition, 2017). Another area of concern is that there is no separate provision for ensuring access to information and participation with regard to corporate activities.

The definition of corporations is restricted, and thus does not include national corporations or non-profit corporations. In addition, the issue of State-owned or State-controlled enterprises would require further elaboration. Further, since the parent company and its subsidiaries are construed as distinct legal entities, the parent company is generally not liable for wrongs committed by a subsidiary (Teitelbaum, 2010: 6).

The issue of extraterritorial obligations would clearly necessitate bold action on the part of the negotiating delegations. In its General Comment No. 24 on State



obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, the Committee on Economic, Social and Cultural Rights already accepted that the State obligation to respect, to protect and to fulfil apply both with respect to situations on the State's national territory, and outside the national territory in situations over which States parties may exercise control. States parties' obligations do not stop at their territorial borders; they are required to take the steps necessary to prevent human rights violations abroad by corporations domiciled in their territory and/or jurisdiction, without infringing the sovereignty of the host States. The rationale behind extraterritorial jurisdiction is that States may influence situations located outside by controlling the activities of corporations domiciled in their territory and/or under their jurisdiction (ICESCR, 2017: paras. 10, 26 and 28). It remains to be seen whether such a reasoning will be supported during the negotiations. Arguably, the treaty should provide for parent company-based regulation and access to justice for victims of transnational corporate human rights violations in the *home State* of TNCs.

Apart from the specific weaknesses described above, Yanes draws attention to the risks of human rights counter-diplomacy, i.e. the use of diplomatic means to frustrate the advancing of human rights issues (Yanes 2018). Thus, international legislation might be regarded as a failure if the number of ratifications is very low, see e.g. the 1990 Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, with 52 ratifications while the Convention on the Rights of Persons with Disabilities, adopted much later, in 2006, attracted 177 ratifications; both data as of 15 September 2018.

Making reservations to treaties is also a common means of excluding certain obligations under a given treaty. While the Zero Draft, in accordance with the *Vienna Convention on the Law of Treaties* (1969), provides that reservations incompatible with the object and purpose of the Convention shall not be permitted, this does not in fact act as a meaningful deterrent from entering into reservation contrary to the general scheme of the B&HR treaty. The *UN Convention on the Elimination of All Forms of Discrimination against Women* of 1979 is a textbook case in this regard, with an extremely high number of reservations, and a great number of them touching upon the core obligations of the Convention. Such sweeping reservations to the envisaged B&HR treaty are also probable.

Another counter-diplomacy tactic is that States actually ratify the envisaged treaty but only due to external pressures or out of internal considerations, with no real intention

to comply with its provisions. Evidence suggests that most countries flagrantly violate the human rights treaties that they solemnly ratify (Posner, 2014) – a real risk in relation to the B&HR treaty.

Finally, Yanes draws attention to the tactic of “disrupting” the supervision mechanisms established by human rights treaties, mainly through the selection of the members of the monitoring bodies, on the one hand, and funding, on the other. As far as the former is concerned, vote-trading aims at selecting members that are less rigorous with certain States, while lack of funding prevents the treaty bodies from developing effective procedures (Komanovics, 2016).

By way of conclusion, the draft text represents an important milestone in addressing abuse of human rights by corporations. Despite its weaknesses, the standards, guarantees and mechanisms envisaged by draft are key elements to ensure that States do not compete for investment by lowering their human rights standards.

## References

### *Books, articles in edited volumes, articles*

- Addo, Michael K. (2014): The Reality of the United Nations Guiding Principles on Business and Human Rights. *Human Rights Law Review*, Volume 14, Issue 1, 1 March 2014, pp. 133–147, <https://doi.org/10.1093/hrlr/ngt041>
- Bloomer, Phil (2014): Are Human Rights an Effective Tool for Social Change?: A Perspective on Human Rights and Business. *SUR – International Journal on Human Rights* 20 (2014), pp. 115-121
- Crawford, J. (2000). The UN human rights treaty system: A system in crisis? In P. Alston & J. Crawford (Eds.), *The Future of UN Human Rights Treaty Monitoring* (pp. 1-12). Cambridge: Cambridge University Press.
- Davis, Rachel (2012): The UN Guiding Principles on Business and Human Rights and conflict-affected areas: state obligations and business responsibilities. *International Review of the Red Cross* Volume 94 Number 887 Autumn 2012, pp. 961-979. At <https://www.icrc.org/en/international-review/article/un-guiding-principles-business-and-human-rights-and-conflict-affected>
- Dearborn, Meredith (2009): Enterprise Liability: Reviewing and Revitalizing Liability for Corporate Groups. 97 *California Law Review* 195-261 (2009). At <https://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1152&context=californialawreview>

- Komanovics, Adrienne (2014): Strengthening the Human Rights Treaty Bodies: A Modest but Important Step Forward. *Pécs Journal of International and European Law* - 2014/I, pp. 7-29. At [http://ceere.eu/pjiel/wp-content/uploads/2013/12/PJIEL\\_2014\\_I.5-32.pdf](http://ceere.eu/pjiel/wp-content/uploads/2013/12/PJIEL_2014_I.5-32.pdf)
- Komanovics, Adrienne (2016): Transition from Commitment to Compliance: The Efficacy of International Human Rights Tribunals. *Anuario da Facultade de Dereito da Universidade da Coruña*, Vol. 20 (2016), pp. 321-349. Available at: <http://revistas.udc.es/index.php/afd/issue/archive>
- Krajewski, Markus (2017): Ensuring the Primacy of Human Rights in Trade and Investment Policies: Model clauses for a UN Treaty on transnational corporations, other businesses and human rights. CIDSE, March 2017.
- Mares, Radu (2014). Corporate and State Responsibilities in Conflict-Affected Areas. *Nordic Journal of International Law* 83 (2014), pp. 293–346.
- Muchlinski, Peter T. (2014): Corporations in International Law Encyclopedia entries. Max Planck Encyclopedia of Public International Law (MPEPIL) June 2014.
- Murray and Hwang: Purpose with Profit: Governance, Enforcement, Capital-Raising and Capital-locking in Low-Profit Limited Liability Companies 66 *University of Miami Law Review* (2011) 6-14.
- Palmer, Claire (2016): What can Post-Democracy tell us about TNCs and Extraterritorial Violations of Human Rights? *The Political Quarterly*, Vol. 87, No. 1, January-March 2016, pp. 76-80
- Posner, Eric (2014): *The Twilight of Human Rights Law* (Oxford University Press).
- Simma, Bruno (2011): Foreign Investment Arbitration: A Place for Human Rights? 60 *International and Comparative Law Quarterly* (2011) 573.
- Thielbörger, Pierre and Ackermann, Tobias (2017): A Treaty on Enforcing Human Rights Against Business: Closing the Loophole or Getting Stuck in a Loop? *Indiana Journal of Global Legal Studies* 24 (2017).
- Jun Zhao (2015): Human Rights Accountability of Transnational Corporations: A Potential Response from Bilateral Investment Treaties. *VIII Journal of East Asia & International Law* 1 (2015), pp. 47-74.

#### *Internet sources*

- Anumo, Felogene and Michaeli, Inna (2018): Justice not “special attention”: Feminist Visions for the Binding Treaty. At <https://www.business->

[humanrights.org/en/justice-not-%E2%80%9Cspecial-attention%E2%80%9D-feminist-visions-for-the-binding-treaty](https://www.business-humanrights.org/en/justice-not-%E2%80%9Cspecial-attention%E2%80%9D-feminist-visions-for-the-binding-treaty)

- Bernaz, Nadia (2018): The Draft UN Treaty on Business and Human Rights: the Triumph of Realism over Idealism. At <https://www.business-humanrights.org/en/the-draft-un-treaty-on-business-and-human-rights-the-triumph-of-realism-over-idealism>
- Békési, László (2010): Cycles of Hungarian National Identity and Economy, on Rail Megatrend Review (Megatrend University, Belgrade), Vol 7 (1), 2010, pp. 1-16.
- Bloomer, Phil and Zorob, Maysa (2018): Another Step on the Road? What does the “Zero Draft” Treaty mean for the Business and Human Rights movement? Available at: <https://www.business-humanrights.org/en/another-step-on-the-road-what-does-the-%E2%80%9Czero-draft%E2%80%9D-treaty-mean-for-the-business-and-human-rights-movement>
- Cassel, Doug (2018): At Last: A Draft UN Treaty on Business and Human Rights *Posted on August 2, 2018*. At <https://lettersblogatory.com/2018/08/02/at-last-a-draft-un-treaty-on-business-and-human-rights/#more-27105>
- Deva, Surya (2018a): The Zero Draft of the Proposed Business and Human Rights Treaty, Part I: The Beginning of an End? At <https://www.business-humanrights.org/en/the-zero-draft-of-the-proposed-business-and-human-rights-treaty-part-i-the-beginning-of-an-end>
- Deva, Surya (2018b): The Zero Draft of the Proposed Business and Human Rights Treaty, Part II: On the Right Track, but Not Ready Yet. At <https://www.business-humanrights.org/en/the-zero-draft-of-the-proposed-business-and-human-rights-treaty-part-ii-on-the-right-track-but-not-ready-yet>
- Lopez, Carlos (2018a): Towards an International Convention on Business and Human Rights (Part I). At <http://opiniojuris.org/2018/07/23/towards-an-international-convention-on-business-and-human-rights-part-i/>
- Lopez, Carlos (2018b): Towards an International Convention on Business and Human Rights (Part II). At <http://opiniojuris.org/2018/07/23/towards-an-international-convention-on-business-and-human-rights-part-ii/>
- Ruggie, John G. (2018): Comments on the “Zero Draft” Treaty on Business & Human Rights. At <https://www.business-humanrights.org/en/comments-on-the-%E2%80%9Czero-draft%E2%80%9D-treaty-on-business-human-rights>
- Teitelbaum Alejandro (2010): A Dialogue with Ruggie? To change so that everything remains the same ... An assessment of John Ruggie’s 2009 and 2010 Reports

JSGA/TLWNSI Brief/HR (B011) September 2010. At [http://www.jussempet.org/Resources/Corporate%20Activity/Resources/A\\_dialogue\\_with\\_Ruggie.pdf](http://www.jussempet.org/Resources/Corporate%20Activity/Resources/A_dialogue_with_Ruggie.pdf)

The Jus Semper Global Alliance / The Living Wages North and South Initiative (TLWNSI).

Yanes, Luis (2018): A Business and Human Rights Treaty: The Risks of Human Rights Counter-Diplomacy. At <http://opiniojuris.org/2018/08/09/a-business-and-human-rights-treaty-the-risks-of-human-rights-counter-diplomacy/>

#### *UN documents*

ICESCR (2017): General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities. E/C.12/GC/24. At <http://undocs.org/E/C.12/GC/24>

UN Commission on Human Rights (2005): Human rights and transnational corporations and other business enterprises, Human Rights Resolution 2005/69. E/CN.4/RES/2005/69. At <http://www.refworld.org/docid/45377c80c.html>

UN Human Rights Council (2008a): Protect, Respect and Remedy: a Framework for Business and Human Rights. Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie, A/HRC/8/5 (7 April 2008). At <http://www.undocs.org/A/HRC/8/5>

UN Human Rights Council (2008b): Addendum: Corporations and Human Rights: A Survey of the Scope and Patterns of Alleged Corporate-Related Human Rights Abuse (John Ruggie, Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises), A/HRC/8/5/Add.2

UN Human Rights Council (2011): Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie. Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework. [With Introduction], A/HRC/17/31, available at [https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

- UN Human Rights Council (2014): Resolution 26/9 establishing an open-ended intergovernmental working group (IGWG) with a mandate to elaborate an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises, A/HRC/RES/26/9, available at: [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/RES/26/9](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/26/9)
- UN Human Rights Council (2016a): UN Working Group on Business and Human Rights' report to the UN Human Rights Council, A/HRC/32/45, available at <http://www.ohchr.org/EN/Issues/Business/Pages/Reports.aspx>
- UN Human Rights Council (2016b): Report on the first session of the open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights, with the mandate of elaborating an international legally binding instrument, A/HRC/31/50
- UN Human Rights Council (2018): Report on the third session of the open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights, A/HRC/37/67.
- UN Office of the High Commissioner for Human Rights (2012): Corporate Responsibility to Respect Human Rights. An Interpretive Guide. OHCHR interpretive guidance on the corporate responsibility to respect human rights. At <https://www.ohchr.org/Documents/Issues/Business/RtRInterpretativeGuide.pdf>
- UN Office of the High Commissioner for Human Rights (2014): Frequently Asked Questions about the Guiding Principles on Business and Human Rights. Available at [https://www.ohchr.org/Documents/Publications/FAQ\\_PrinciplesBusinessHR.pdf](https://www.ohchr.org/Documents/Publications/FAQ_PrinciplesBusinessHR.pdf)
- Zero Draft (2018): Legally Binding Instrument to Regulate, in International Human Rights Law, the Activities of Transnational Corporations and Other Business Enterprises. At <https://www.ohchr.org/Documents/HRBodies/HRCouncil/WGTransCorp/Session3/DraftLBI.pdf>
- Zero draft optional protocol to the Zero Draft legally binding instrument Legally Binding Instrument to Regulate, in International Human Rights Law, the Activities of Transnational Corporations and Other Business Enterprises (2018). At

<https://www.ohchr.org/Documents/HRBodies/HRCouncil/WGTransCorp/Session4/ZeroDraftOPLegally.pdf>

*Other sources*

EU Commission (2015): Commission Staff Working Document on Implementing the UN Guiding Principles on Business and Human Rights –State of Play. Brussels, 14.7.2015.

Feminists For A Binding Treaty coalition (2017): Integrating a gender perspective into the legally binding instrument on transnational corporations and other business enterprises.

Statement on the draft elements proposed by the OEIGWG Chair. At <https://wilpf.org/wp-content/uploads/2017/10/Jt-statement-gender-into-the-treaty-October-2017.pdf>

International Labour Rights Forum (2005), The 14 worst Corporate Evildoers. Available at [www.laborrights.org/in-the-news/14-worst-corporate-evildoers](http://www.laborrights.org/in-the-news/14-worst-corporate-evildoers)

Joint Committee on Human Rights, Business and Human Rights (2017): Promoting Responsibility and Ensuring Accountability, HL Paper 153, HC 443. <https://publications.parliament.uk/pa/jt201617/jtselect/jtrights/443/443.pdf>

Ruggie, John G. (2014): A UN Business and Human Rights Treaty Update. [https://www.business-humanrights.org/sites/default/files/media/un\\_business\\_and\\_human\\_rights\\_treaty\\_update.pdf](https://www.business-humanrights.org/sites/default/files/media/un_business_and_human_rights_treaty_update.pdf)

University of Bristol & Arts & Humanities Research Council (2009): ‘Follow-Up and Implementation of Decisions by Human Rights Treaty Bodies’. Summary of issues and recommendations of an expert seminar held on 10 September 2009. Available at: <http://www.bris.ac.uk/media-library/sites/law/migrated/documents/implementationtreaty.pdf>